

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FG SRC LLC,

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Plaintiff,

v.

Civil Action No. 20-00601-WCB

XILINX, INC.

Defendant.

ORDER

On February 18, 2022, the parties submitted letters to the court setting forth the status of the parties' negotiations regarding an ongoing discovery dispute. The parties reported that although they had made some progress, they are still at impasse with regard to important aspects of the dispute. In order to facilitate resolution of the dispute, I am entering this interim order requiring further action on the part of both parties.

1. Defendant Xilinx, Inc., is directed to provide plaintiff FG SRC LLC ("SRC") with an explanation of how, in the spreadsheet provided to SRC during the week of February 14, 2022, the debit and credit system works and what the column headers and listed revenue types on the spreadsheet mean. Rule 33(d) of the Federal Rules of Civil Procedure provides that a party may answer an interrogatory by producing business records in place of a narrative response "if the burden of deriving or ascertaining the answer will be substantially the same for either party." In this case, that burden will be substantially the same only if SRC has full knowledge of the meaning of terms and abbreviations used in the spreadsheet so that it can ascertain the answer to Interrogatory No. 18. The "high level" description offered by Xilinx may be sufficient, but if SRC

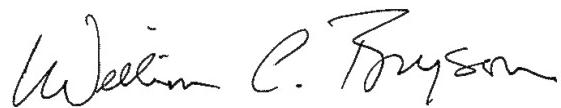
requires more detailed information to understand the spreadsheet, such information should be provided by Xilinx. It is unsatisfactory for Xilinx merely to offer to produce such information through a deposition of a Rule 30(b)(6) witness, particularly in light of the short period still remaining for fact discovery.

2. The parties are directed to file supplemental letters addressing the following: (1) the extent to which the contracts with Xilinx's customers are easily retrievable; (2) how much of the burden of producing those contracts is related to the confidentiality provisions of those contracts; (3) what information SRC is seeking from the contracts, purchase orders, and invoices that cannot be obtained from the spreadsheet or other information produced by Xilinx; (4) whether any confidentiality representations in any of Xilinx's contracts provide a legal basis for withholding that discovery; and (5) the status of any ongoing negotiations regarding this dispute.

3. The disclosures ordered in paragraph 1 above must be made by 5 p.m. Eastern Time on Wednesday, February 23, 2022. The letters ordered in paragraph 2 above shall be filed by 5 p.m. Eastern Time on Thursday, February 24, 2022.

IT IS SO ORDERED.

SIGNED this 18th day of February, 2022.



WILLIAM C. BRYSON
UNITED STATES CIRCUIT JUDGE